

# In the Court of Appeals of the State of Alaska

Nicholas Chamberlain,  
Appellant,

v.

State of Alaska,  
Appellee.

Court of Appeals No. A-13499

## Order Closing Appeal and Remanding Matter to the Trial Court

Date of Order: 5/26/2020

Trial Court Case No. 3AN-19-04466CI, 3AN-15-06398CI

Nicholas Chamberlain, representing himself, appealed the dismissal of his second application for post-conviction relief. In his second application, he challenged the competency of the attorney who, at the time Mr. Chamberlain filed this appeal, was still representing Mr. Chamberlain in his first application for post-conviction relief. According to Mr. Chamberlain's pleadings, the superior court had dismissed his second application because the first application is still pending. Because his first application was still pending, this Court concluded that this appeal was premature.

Because this appeal was premature, on December 12, 2019 this Court *sua sponte* stayed this appeal and lodged Mr. Chamberlain's opening brief, pending the final judgment in Mr. Chamberlain's first application for post-conviction relief. The superior court has now issued a ruling, and on May 14, 2020 the superior court distributed the judgment dismissing Mr. Chamberlain's first application.

This Court provided in its *sua sponte* order that if the superior court dismissed Mr. Chamberlain's first application for post-conviction relief, this Court

would return this case to the superior court for renewed consideration.

Accordingly, **IT IS ORDERED:**

1. Because, as a matter of law, Mr. Chamberlain's second application for post-conviction relief was not ripe, the superior court properly dismissed it for that reason. Therefore, the Appellate Clerk is directed to close this appeal, to return this case to the superior court, and to return to Mr. Chamberlain his lodged opening brief.

2. Although the superior court properly dismissed Mr. Chamberlain's second application because it was premature, upon the dismissal of the first application, the second application became ripe. Therefore the superior court is directed to reinstate Mr. Chamberlain's second application for post conviction relief and to allow him to litigate his claim of ineffective assistance of counsel.

3. That said, Mr. Chamberlain now has the right to appeal the dismissal of his *first* application for post-conviction relief. If Mr. Chamberlain wishes to appeal that dismissal, he has 30 days from the date the superior court distributed the judgment in that case (that is, his notice of appeal is due 30 days from May 14, 2020). If Mr. Chamberlain appeals the dismissal of his first application, he may ask the superior court to stay the litigation of his second application until the appeal of the first application has been resolved.

*Chamberlain v. State*, File No. A-13499  
5/26/2020 - p. 3

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts

A handwritten signature in cursive script, reading "Joyce Marsh", written in black ink.

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Joyce Marsh, Deputy Clerk

cc: Trial Court  
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